

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 12754 of Hal Walls, Jr., pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the use provisions (Section 3104) to permit the use of the first and second floors of the subject premises as a law and real estate office in an R-4 District at the premises 4604 Georgia Avenue, N.W., (Square 2920, Lot 39).

HEARING DATE: October 25, 1978  
DECISION DATE: November 1, 1978

FINDINGS OF FACT:

1. The Board, for good cause shown, waived Section 3.33 of the Supplemental Rules of Practice and Procedure before the Board which requires that an affidavit, attesting to the fact that the subject property was posted, be filed five days before the scheduled public hearing. The affidavit was filed only one day before the October 25th hearing. The property was posted on October 14, 1978, as required.
2. The subject property is located on the west side of Georgia Avenue approximately sixty feet north of its intersection with Buchanan Street. It is known as 4604 Georgia Avenue, N.W. It is in an R-4 District.
3. The subject rectangular shaped property consists of 4000 square feet of land area, and is topographically flat. The property is developed with a two story frame and stucco detached dwelling with an attic and porch. The exterior condition of the premises appears sound in construction and has been recently painted. There is a concrete driveway in the rear yard of the premises with room to accomodate two vehicles.
4. Records in the Central Permits Branch show that certificate of occupancy No. B-23135 was issued July 13, 1960 under Board of Zoning Adjustment Order No. 5855 to use the basement and 1st floor of the subject premises as a private school for instruction in dramatics and musical instruments (individual and small groups).

In the aforementioned BZA Order No. 5855 the relief was granted as a special exception for use of the subject premises as a private school.

5. To the north of the subject property are single family detached dwellings used as residences; to the east, access Georgia Avenue, there are row dwellings used as residences; to the west there is a ten foot wide alley followed by the backyards of single family detached dwellings used as residences and to the south, adjacent to the subject property there is a single family detached dwelling with an office of a resident physician on the basement level. Further south and across Buchanan Street there is a small corner grocery, followed by a radio T.V. repair shop, a barber shop, and a shoe repair shop all of which are in the R-4 District, and are thus nonconforming uses.

6. The applicant proposes to use the first and second floors of the subject premises as a law and real estate office. The applicant would handle all the legal work but planned to have several real estate salesman. The first and second floor would be partiioned off into office space.

7. The property was purchased as vacant by the applicant in January, 1978. The applicant testified that he was advised that the property was on the market for a long time, that it was advertised as suitable for a Church or office use and that he believes it is not suitable for residential uses.

8. A law and real estate office (office of a professional person) is first allowed as a special exception in the SP District and as a matter of right in the C-1 District. The subject property is in the R-4 District.

9. The 4600 block of Georgia Avenue is residential in character.

10. As aforementioned there are a few small commercial establishments located approxmiately 140 feet south of the subject property that from on Georgia Avenue in the next block. All of these uses are nonconforming.

11. The Georgia Avenue frontage zoned residential has historically suffered from the piecemeal encroachment of commercial uses. This trend is partly due to the easy vehicular access and visibility that these residential properties have along this arterial street.

12. The applicant demonstrated no undue hardship upon himself resulting from the strict application of the Regulations.

13. The Municipal Planning Office, by report dated October 18, 1978, recommended that the application be denied on the grounds that the proposed use is not in the interest of the public good and that it would have an adverse impact on the neighboring residential property. The Board so finds.

14. Advisory Neighborhood Commission 4C filed no recommendation on the application.

15. One neighbor favored the granting of the application on the grounds that income tax service would be convenient for her. Such a convenience is not the basis for the granting of a variance.

CONCLUSIONS OF LAW:

The applicant seeks a use variance, the granting of which requires a showing of a hardship stemming from the property itself. The property herein is rectangular in shape and is topographically flat. The evidence presented that the subject property is not suitable for the purpose for which it is zoned is not persuasive. Furthermore, the applicant presented no evidence as to hardship stemming from the property. The Board notes, as evidenced by the MPO report, that there appears to be a trend to commercial residential property along this Georgia Avenue strip. The Board is of the opinion that the residential uses of this neighborhood must be preserved and to grant this application would cause substantial detriment to the public good and substantially impair the intent, purpose and integrity of the zone plan.

The Board concludes, for the reasons above mentioned, that the relief sought cannot be granted. Accordingly, it is ORDERED that the application is DENIED.

VOTE: 4-0 (Charles R. Norris, Ruby B. McZier, Chloethiel Woodard Smith and William F. McIntosh to deny, Leonard L. McCants not present, not voting)

BZA Order No. 12754

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BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY: \_\_\_\_\_



STEVEN E. SHER

Executive Director

FINAL DATE OF ORDER: \_\_\_\_\_

8 DEC 1978